

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION**

<b>UNITED STATES OF AMERICA</b>	)	
	)	
v.	)	<b>No. 3:04cr0087 AS</b>
	)	
<b>GARY VANWAEYENBERGHE</b>	)	

***ORDER***

This court takes full judicial notice of all the proceedings in this case, including the trial and verdicts of the jury. The evidence against this defendant, Gary VanWaeyenberghe in this trial was, to say the least, overwhelming. During the course of those proceedings, this court was far too generous in permitting pro se filings to be made by this defendant when he was represented by able, experienced and competent counsel.

It is of some interest to note that the alleged incident when some jurors may have inadvertently and very briefly seen the defendant Gary VanWaeyenberghe in the hallway near the jury room in handcuffs was not mentioned until the trial had ended. Giving this defendant the benefit of every doubt, including his own description of the alleged incident, it clearly falls within the ambit of *United States v. Rutledge*, 40 F.3d 879 (7th Cir. 1994). Magistrate Judge Christopher A. Nuechterlein chose not to wade into that incident, and in that he was correct. Nonetheless, under the law in this circuit giving this defendant the benefit of every doubt in describing the incident, it is simply not of serious moment here. The magistrate judge generally got it right with regard to so-called hybrid representation, and

frankly, this court should have been more careful in imposing those strictures on the defendant in this case.

Therefore, the Report and Recommendation of the United States Magistrate Judge is well taken and correct under the applicable law which he cites in this circuit. Said Report and Recommendation is in all things **APPROVED** and **CONFIRMED**, and the pro se filings made by this defendant, Gary VanWaeyenberghe, is now **STRICKEN FROM THE RECORD. IT IS SO ORDERED.**

**DATED:** June 2, 2005

s/ ALLEN SHARP  
**ALLEN SHARP, JUDGE**  
**UNITED STATES DISTRICT COURT**

cc: The Honorable Christopher A. Nuechterlein